

Nos. 23-1174 (L), 23-1221, 23-1175 (L), 23-1222

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UNITED STATES COURT OF APPEALS  
FOR THE  
DISTRICT OF COLUMBIA CIRCUIT

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Nos. 23-1174 (L), 23-1221

City of Port Isabel, et al., Petitioners

v.

Federal Energy Regulatory Commission, Respondent,  
Rio Bravo Pipeline Company, LLC and Rio Grande LNG, LLC,  
Intervenors

Nos. 23-1175 (L), 23-1222

City of Port Isabel and Sierra Club, Petitioners

v.

Federal Energy Regulatory Commission, Respondent,  
Texas LNG Brownsville, LLC, Intervenor

On Petitions for Review of Orders of the Federal Energy Regulatory  
Commission

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**MOTION OF BROWNSVILLE NAVIGATION DISTRICT OF  
CAMERON COUNTY, TEXAS FOR INVITATION OR LEAVE  
TO FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF  
INTERVENORS RIO GRANDE LNG, LLC'S AND TEXAS LNG  
BROWNSVILLE, LLC'S PETITIONS FOR PANEL REHEARING  
AND REHEARING EN BANC**

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William J. Irwin  
Rentfro, Irwin, & Irwin, PLLC  
1650 Paredes Line Road, Suite 102  
Brownsville, Texas 78520  
(956) 542-4329

[bill@rentfrolawfirm.net](mailto:bill@rentfrolawfirm.net)

Counsel for Brownsville Navigation District of Cameron County, Texas

**MOTION OF BROWNSVILLE NAVIGATION DISTRICT OF  
CAMERON COUNTY, TEXAS FOR INVITATION OR LEAVE  
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AND REHEARING EN BANC**

Brownsville Navigation District of Cameron County, Texas (BND) respectfully moves for an invitation from this Court, pursuant to Federal Rule of Appellate Procedure 29(b)(2), to submit a brief as *amicus curiae* in support of Rio Grande LNG, LLC's and Texas LNG Brownsville's petitions for panel rehearing and rehearing en banc. *See, e.g., Order, United Mine Workers of Am. v. Energy W. Mining Co.*, No. 20-7054 (Doc. 1962268) (D.C. Cir. Sept. 6, 2022 (granting similar request for invitation to file amici curiae brief in support of rehearing petition); Order, *PHH Corp. v. CFPB*, No. 15-1177 (Doc. 1661675) (D.C. Cir. Feb. 16, 2017 (also granting similar request); Order, *Nat'l Ass'n of Mfrs. V. SEC*, No. 13-5252 (Doc. 1582585) (D.C. Cir. Nov. 9, 2015) (also granting similar request).

Respondent Federal Energy Regulatory Commission ("FERC") does not oppose BND's request. Interventors Rio Grande LNG, LLC and Texas LNG Brownsville, LLC do not oppose BND's request. Petitioners have not consented to the filing of any *amicus curiae* brief in this case. The amicus brief of BND, conditionally submitted to the Court with this

motion, adheres to the 2,600-word limit found at Federal Rule of Appellate Procedure 29(b)(4).

As grounds for this motion, as stated more fully in the brief submitted conditionally herewith, BND, a political subdivision of the State of Texas, has a substantial interest in the subject of this litigation because FERC has approved the siting of the two liquefied natural gas projects (the LNG projects) on real property owned by BND. Furthermore, the BND is the owner of a marine terminal facility commonly known as the Port of Brownsville, including the 17-mile Brazos Island Harbor ship channel, and represents the interests of its tax-paying constituents in Cameron County, Texas. The vacatur of the FERC authorizations for the LNG projects will damage the interests of the BND and its constituents in several ways, including potentially devastating impacts to the Brazos Island Harbor ship channel deepening project (the “BIH project”), which has been approved by the United States Congress, the United States Army Corps of Engineers, and is funded in part by the federal government, in part by the BND, and in part by Intervenor.

The BIH project has already commenced construction and the BND has already expended millions of dollars in support of the BIH project, largely in reliance on FERC's authorizations to Rio Grande LNG, LLC and Texas LNG Brownsville, LLC, and upon the prior panel's opinion in this case that the LNG projects were to be remanded to FERC for further review and consideration *without vacatur*. BND wishes to explain the severe real-world consequences of vacatur of the FERC authorizations to BND and the local communities. The impacts to the BND, the BIH project, and to the communities the BND serves, are not fully or adequately addressed in the Intervenor's petitions for rehearing, and the BND's unique perspective is not provided by any other party or amici. See Fed. R. App. P. 29(a)(3).

For the foregoing reasons, BND respectfully requests that this Court invite BND to file the accompanying brief as *amicus curiae*.

Respectfully submitted,  
Rentfro, Irwin, & Irwin, PLLC  
William J. Irwin  
1650 Paredes Line Road, Suite 102  
Brownsville, Texas 78521  
956-542-4329  
Attorneys for *Amicus Curiae*

/ s / William J. Irwin  
William J. Irwin

## CERTIFICATE OF COMPLIANCE

1. The foregoing motion complies with the word limit of Fed. R. App. P. 27(d)(2) because it contains 955 words, excluding the parts exempted by Fed. R. App. P. 32(f) and 27(d)(2), as determined by the word-counting feature of Microsoft Word.
2. This motion complies with the type-face requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in proportionally spaced typeface using Microsoft 365 in Century Schoolbook 14-point font.

Date: October 23, 2024

Respectfully submitted,

Rentfro, Irwin, & Irwin, PLLC  
William J. Irwin  
1650 Paredes Line Road, Suite 102  
Brownsville, Texas 78521  
956-542-4329  
Attorneys for *Amicus Curiae*

/ s / William J. Irwin

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William J. Irwin

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Appellate Procedure 25, I hereby certify that on October 23, 2024, I electronically filed the foregoing with the Clerk of the Court for the U.S. Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system, and served copies of the foregoing via the Court's CM/ECF system on all ECF-registered counsel.

Respectfully submitted,

Rentfro, Irwin, & Irwin, PLLC  
William J. Irwin  
1650 Paredes Line Road, Suite 102  
Brownsville, Texas 78521  
956-542-4329  
Attorneys for *Amicus Curiae*

/ s / William J. Irwin

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William J. Irwin